

April 14, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14th day of April 2005, at 8:00 P.M., and there were

PRESENT:           JEFFREY LEHRBACH, CHAIRMAN  
                          JOHN ABRAHAM, JR. MEMBER  
                          WILLIAM MARYNIEWSKI, MEMBER  
                          RICHARD QUINN, MEMBER  
                          ROBERT THILL, MEMBER

ABSENT:           ANTHONY ESPOSITO, MEMBER  
                          ARLIE SCHWAN, MEMBER

ALSO PRESENT:   MARY ANN PERRELLO, DEPUTY TOWN CLERK  
                          LEONARD CAMPISANO, ASSISTANT BUILDING INSPECTOR  
                          RICHARD SHERWOOD, TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF PAUL & CARMEN USINSKI:**

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Paul and Carmen Usinski, 10 Regency Court, Bowmansville, New York 14026 for two [2] variances for the purpose of constructing an addition to an attached garage on premises owned by the petitioners at 10 Regency Court, Bowmansville, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed garage would result in a south side yard of two point two one [2.21] feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a seven point five [7.5] foot south side yard. The petitioners, therefore, request a south side yard variance of five point two nine [5.29] feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)(1) of the Code of the Town of Lancaster. The location of the proposed garage addition would result in a total width of both side yards of fifteen point eight three [15.83] feet .

Chapter 50, Zoning, Section 10C.(3)(b)(1) of the Code of the Town of Lancaster requires the total width of both side yards to be a minimum of 25% of the lot width, namely eighteen point seven five [18.75] feet for this dwelling. The petitioners, therefore, request a two point nine two [2.92] foot total width of both side yards variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Paul Usinski, petitioner 10 Regency Court Lancaster, New York 14086	Proponent
Raphael Leo 12 Regency Court Lancaster, New York 14086	Opponent

**IN THE MATTER OF THE PETITION OF PAUL & CARMEN USINSKI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY  
MR. QUINN TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Paul & Carmen Usinski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of April 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of Lancaster adopts the following findings in this matter:

**FINDINGS**

- That the applicants are the present owners of the premises in question.
  - That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.
  - That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.
  - That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.
  - That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.
  - That the requested area variance relief is substantial.
  - That the alleged difficulty is self created.
  - That Regency Court is a residential street off Genesee Street in Bowmansville terminating in a cul-de-sac.
  - That the character of the neighborhood is that of single family private dwellings with two (2) car attached garages.
  - That the character of the neighborhood is that of a minimum of fifteen (15) feet open space between each home.
  - That sufficient space exists behind the garages for additional storage space.
- and,

**BE IT FURTHER**

**RESOLVED**, that the petitioners, Paul & Carmen Usinski, be granted the following variances:

**DETERMINATION**

Two (2) variances from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed garage would result in a south side yard of two point two one [2.21] feet and a combined total lot width of both side yards of 15.83 feet.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The variance relief sought was not granted.

April 14, 2005

**PETITION OF MAGUIRE GROUP HEALTH CARE FACILITIES:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of the Maguire Group Health Care Facilities, 100 Seneca Street, Buffalo, New York 14203 for two [2] variances for the purpose of allowing a ground sign to remain in its current position and to further permit the petitioner to increase the height of said ground sign on property owned by the petitioner at 2699 Wehrle Drive, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning 30F.(2)(c)[2][a] of the Code of the Town of Lancaster to permit a sign height of eight [8] feet above finished grade.  
  
Chapter 50, Zoning, Section 30F.(2)(c)[2][a] of the Code of the Town of Lancaster limits the height of a ground sign to four [4] feet above finished grade. The petitioner, therefore, requests a four [4] foot ground sign height variance.
  
- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[2][c] of the Code of the Town of Lancaster to permit the sign to remain in its existing location of eleven feet [11'] from the right-of-way.  
  
Chapter 50, Zoning, Section 30F.(2)(c)[2][c] requires that a ground sign be located at least fifteen [15] feet from a right-of-way. The petitioner, therefore, requests a four foot [4'] right-of-way set back variance.

**The Clerk presented and entered into evidence the following items:**

- Duly executed petition of the applicant with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioner of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.
- Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.
- Copy of a letter notifying the Town of Clarence of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Mike Ulrich, Ulrich Sign Company	Proponent
Jennifer Dowdell, Director of Marketing for Maguire Group	Proponent

**MOTIONS**

- a.) Motion duly made, seconded and carried to vote upon each variance request separately.
  
- b.) Motion duly made, seconded and carried to vote upon the sign location variance first and the sign height variance second.

**IN THE MATTER OF THE PETITION OF MAGUIRE GROUP HEALTH CARE FACILITIES**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY  
MR. LEHRBACH, TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Maguire Group Health Care Facilities and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of April 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted.

**NOW, THEREFORE, BE IT  
RESOLVED**, that the Zoning Board of Appeals of the Town of Lancaster adopts the following findings in this matter:

**FINDINGS**

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential Commercial Office District, (RCO) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential Commercial Office District, (RCO) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern",

and,

**BE IT FURTHER  
RESOLVED**, that the petitioner be granted the following variance from the Zoning Board of Appeals:

**DETERMINATION  
[sign location variance]**

To Wit:

A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[2][c] of the Code of the Town of Lancaster to permit the sign to remain in its existing location of eleven feet [11'] from the right-of-way.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The variance relief sought was not granted.

and,

**BE IT FURTHER**

**RESOLVED**, that the petitioner be granted the following variance from the Zoning Board of Appeals:

**DETERMINATION**  
**[sign height variance]**

To Wit:

A variance from the requirements of Chapter 50, Zoning 30F.(2)(c)[2][a] of the Code of the Town of Lancaster to permit a sign height of eight [8] feet above finished grade.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The variance relief sought was thereupon granted.

April 14, 2005

**PETITION OF GREG WHEELER:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Greg Wheeler, 15 Butler Drive, Lancaster, New York 14086 for two [2] variances for the purpose of erecting a six [6] foot high fence and constructing a twelve [12] foot by twelve [12] foot storage shed in a required open space area on premises owned by the petitioner at 15 Butler Drive, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Butler Drive with an exterior side yard [considered a front yard equivalent] fronting on Bentley Circle. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Bentley Circle.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The petitioner proposes to construct a twelve [12] foot by twelve [12] foot storage shed located in the west exterior side yard resulting in a twenty one [21] foot set back from Bentley Circle.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five [35] foot west exterior side yard set back on Bentley Circle. The petitioner, therefore, requests a fourteen [14] foot west exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Greg Wheeler, petitioner  
15 Butler Drive  
Lancaster, New York 14086

Proponent

Jeff Dobbs, Contractor

Proponent

**Motion**

Motion was duly made, seconded and carried to vote upon each variance request separately.



**IN THE MATTER OF THE PETITION OF GREG WHEELER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MT. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY  
MR ABRAHAM, TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Greg Wheeler and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York on the 14th day of April 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted.

**NOW, THEREFORE, BE IT  
RESOLVED**, that the Zoning Board of Appeals of the Town of Lancaster adopts the following findings in this matter:

**FINDINGS**

Variance Request No. 1  
**[fence height]**

- That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.
- That no detriment to nearby properties will be created by the granting of the area variance relief sought.
- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.
- That the requested area variance relief is substantial.
- That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.
- That this Board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood by such grant.
- That within the purpose and intent of Chapter 50, Zoning, of the Code of the Town of Lancaster, the variance relief sought is the minimum variance necessary to afford relief.
- That the proposed fence will not shut out air or light to adjoining properties or cause a safety fire hazard.

**FINDINGS**

Variance Request No. 2  
**[shed location]**

- That the shed as presently proposed in the exterior side yard would have a height extending above the height of the six (6) foot fence.]
- That a feasible alternative exists in placement of the shed in other available areas in the back yard.

**DETERMINATION**

**BE IT FURTHER**

**RESOLVED**, that the petitioner, Greg Wheeler, be granted the following variance from the Zoning Board of Appeals:

Variance No. 1  
**[fence height]**

To Wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Butler Drive with an exterior side yard [considered a front yard equivalent] fronting on Bentley Circle. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Bentley Circle., subject to the following condition imposed by this Board:

- That the fence shall be placed on the west side of the property line a distance no more than twenty (20) feet into required side yard front yard equivalent as measured from the southwest corner of the house and thence running southerly parallel to the west property line a distance of approximately 81.47 feet and then to run at an angle of 135E southeasterly to a point in the rear lot line and thence continue easterly to the southeast corner of the lot.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The variance relief sought was thereupon granted.

**DETERMINATION**

Variance Request No. 2  
**[Shed location]**

To Wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The petitioner proposes to construct a twelve [12] foot by twelve [12] foot storage shed located in the west exterior side yard resulting in a twenty one [21] foot set back from Bentley Circle.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The variance relief sought was not granted .

April 14, 2005

**PETITION OF JOHN & JENNIFER PASTORE:**

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of John and Jennifer Pastore, 46 Rehm Road, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a five [5] foot high fence in a required open space area on premises owned by the petitioner at 46 Rehm Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Rehm Road with a south exterior side yard [considered a front yard equivalent] also fronting on Rehm Road. The petitioner proposes to erect a five [5] foot high fence within the required open space area of the south exterior side yard fronting on Rehm Road.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a two [2] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

John Pastore\_\_\_\_\_Proponent  
46 Rehm Road  
Lancaster, New York 14086

Dan Reardon, fence contractor\_\_\_\_\_Proponent

John Crinzi\_\_\_\_\_Opponent  
42 Hill Valley Dive  
Lancaster, New York 14086

Mary Alice Crinzi\_\_\_\_\_Opponent  
42 Hill Valley Drive  
Lancaster, New York 14086

**IN THE MATTER OF THE PETITION OF JOHN & JENNIFER PASTORE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY  
MR. MARYNIEWSKI, TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John & Jennifer Pastore and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of April 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted.

**NOW, THEREFORE, BE IT  
RESOLVED**, that the Zoning Board of Appeals of the Town of Lancaster adopts the following findings in this matter:

**FINDINGS**

- That the applicants are the present owners of the premises in question.
- That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.
- That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.
- That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought, **as amended**.
- That no detriment to nearby properties will be created by the granting of the area variance relief sought, **as amended**.
- That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.
- That the requested area variance relief is not substantial, **as amended**.
- That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, **as amended**.
- That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought, **as amended**.
- That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.
- That within the intent and purposes of this ordinance the variance relief sought, **as amended**, if granted, is the minimum variance necessary to afford relief.
- That such fence location, **as amended**, will not unduly shut out light or air to adjoining properties.
- That such fence location, **as amended**, will not create a fire hazard by reason of its construction or location.

**DETERMINATION**

**BE IT FURTHER**

**RESOLVED**, that the petitioners, John & Jennifer Pastore, be granted the following amended variance from the Zoning Board of Appeals of the Town of Lancaster:

To Wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a five (5) foot fence in the exterior side yard considered a front yard equivalent on premises owned by the petitioner at 45 Rehm Road, Lancaster, New York subject to the following condition imposed by this Board:

- The fence is to be constructed at least fifteen (15) feet north of the south property line outside of the fifteen (15) foot utilities’ easement shown on the survey of the petitioner.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	WAS ABSENT
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The variance relief sought was thereupon granted.

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 10:37 P.M.

Signed \_\_\_\_\_  
Mary Ann Perrello, Deputy Town Clerk  
Dated: April 14, 2005